

DBSI is aware of the holdings of *Joy v. North*, 692 F.2d 880, 893 (2d Cir. 1982), cert. denied, 460 U.S. 1051 (1983), and *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 123 (2d Cir., 2006), to the effect that “documents used by parties moving for, or opposing, summary judgment should not remain under seal absent the most compelling reasons.” *Lugosch*

recognized that there may be “countervailing factors” justifying the sealing of such documents. The interests of nonparties in their financial and other forms of privacy is, we submit, such countervailing factor.

The approach taken by the parties was narrowly tailored. Plaintiff’s own performance evaluations, for example, have been filed in the public record as to plaintiff’s motion for partial summary judgment. Information regarding the performance of nonparty present and former employees, including their personal identifying information, is an entirely different matter.

An intensifying factor underlying the need for confidentiality for the documents that DBSI seeks to file under seal is that this case involves investment banking, where parts of the information may derive from, or directly reflect, information originally provided to defendant on a confidential basis by other companies or other persons.

Plaintiff has authorized DBSI to represent that he has no objection to this Motion.

WHEREFORE, DBSI prays that its Motion be granted.

Dated: New York, New York  
July 9, 2012

SEYFARTH SHAW LLP

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**Certificate of Service**

I certify that I have, this 9th day of July, 2012, served a true and correct copy of Defendant Deutsche Bank Securities Inc.'s Memorandum of Law in Support of its Consented Motion for Leave to File Documents Under Seal on counsel of record for plaintiff, as shown below, by service through the Court's ECF system:

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